

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY A. ISAACKS,
Plaintiff,

vs.
AIRWAY HEIGHTS
CORRECTIONAL CENTER and
DEPARTMENT OF
CORRECTIONS,
Defendants.

NO. CV-11-239-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT

1915(g)

Magistrate Judge Hutton filed a Report and Recommendation on October 17, 2011, recommending Mr. Isaacks's complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted. Plaintiff's allegations against "arms of the state," a correctional facility and the Department of Corrections, could not state a claim for monetary relief under 42 U.S.C. § 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 70 (1989). Furthermore, it was clear from the face of the complaint that Plaintiff could not have exhausted available administrative remedies as required by 42 U.S.C. § 1997e(a). *McKinney v. Carey*, 311 F.3d 1198, 1199 (9th Cir. 2002).

There being no objections, the court **ADOPTS** the Report and Recommendation in its entirety. **IT IS ORDERED** the Complaint is **DISMISSED WITH PREJUDICE** under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING COMPLAINT -- 1

1 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings
2 three or more civil actions or appeals which are dismissed as frivolous or for failure to
3 state a claim will be precluded from bringing any other civil action or appeal *in forma*
4 *pauperis* “unless the prisoner is under imminent danger of serious physical injury.” 28
5 U.S.C. § 1915(g). **Plaintiff is advised to read the new statutory provisions under 28**
6 **U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the three**
7 **dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to file**
8 **future claims.**

9 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
10 Order, enter judgment, forward copies to Plaintiff at his last known address, and close the
11 file. The District Court Executive is further directed to forward a copy of this Order to
12 the Office of the Attorney General of Washington, Criminal Justice Division. The court
13 certifies any appeal of this dismissal would not be taken in good faith.

14 **DATED** this 14th day of November 2011.

15
16 s/Robert H. Whaley
17 ROBERT H. WHALEY
18 UNITED STATES DISTRICT
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